

## § 12.14

the complaint and the appropriate filing fee, the Proceedings Clerk shall assign a docket number to the matter and shall maintain the official docket.

(4) *Bond required if complainant is non-resident; filing date of nonresident's complaint.* (i) If a complaint in reparations is filed by a nonresident of the United States, the complaint shall not be considered duly filed in proper form unless it is accompanied by:

(A) A bond in double the amount of the claim either with a surety company approved by the Treasury Department of the United States or two personal sureties, each of whom shall be a citizen of the United States and shall qualify as financially responsible for the entire amount of the bond, which bond shall run to the respondent and be conditioned upon the payment of costs (including reasonable attorney's fees, for the respondent if the respondent shall prevail) and any reparation award that may be issued by the Commission against the complainant on any counterclaim asserted by respondent; or

(B) A written request that the bond requirement be waived in accordance with section 14(c) of the Commodity Exchange Act, accompanied by sufficient proof that the country of which the complainant is a resident permits the filing of a complaint by a resident of the United States against a citizen of that country without the furnishing of a bond.

(ii) The provisions of paragraphs (b)(4)(i)(A) or (b)(4)(i)(B) of this section must be satisfied within two years after the complainant's cause of action accrues.

(iii) When mailed from a foreign country, a nonresident's complaint shall be deemed filed on the date that it is received in proper form by the Commission's Proceedings Clerk, not on the date of mailing from the country of origin.

[49 FR 6621, Feb. 22, 1984; 49 FR 15070, Apr. 17, 1984, as amended at 51 FR 35507, Oct. 6, 1986; 59 FR 9636, Mar. 1, 1994; 60 FR 49335, Sept. 25, 1995]

## § 12.14 Withdrawal of complaint.

At any time prior to service of notification to the complainant pursuant to § 12.15(a) of the Director of the Office of Proceedings' determination to forward

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the complaint to a registrant, complainant may file a written notice of withdrawal of the complaint which shall terminate the Commission's consideration of the complaint without prejudice to complainant's right to re-file a reparations complaint based upon the same set of facts within two years after the cause of action accrues. If the complainant has previously filed a notice of withdrawal of a complaint based upon the same set of facts, the notice of withdrawal of complaint shall terminate the case with prejudice to complainant's rights to re-file a complaint in reparations based on the same set of facts, but such termination shall be regarded by the Commission as without prejudice to complainant's right to seek redress in such alternative forums as may be available for adjudication of his claims.

## § 12.15 Notification of complaint.

(a) *Forwarding of complaint to registrant.* If, in the opinion of the Director of the Office of Proceedings, the facts set forth in a complaint warrant such action as to any of the registrants, a copy of the complaint, together with any attachments thereto, shall be forwarded by serving by registered mail or certified mail any such registrant named therein at an address previously designated with the Commission by the registrant for receipt of reparation complaints, as provided in Commission Regulation 17 CFR 3.30, or, if no such designation has been filed with the Commission, at such address as will accomplish actual notice to the respondent. Should the Director determine to forward the complaint, the complainant shall be notified of this determination at the time the complaint is forwarded.

(b) *Determination not to forward complaint.* The Director may, in his discretion, refuse to forward a complaint as to a particular respondent if it appears that the matters alleged therein are not cognizable in reparations, or that grounds exist pursuant to § 12.24 (c) or (d) for refusing to forward the complaint. If the Director of the Office of Proceedings should determine not to